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9 Attorneys for Plaintiff  
UNITED STATES OF AMERICA  
10

11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 ROBERTO MACIAS,

17 Defendant.  
18

No. CR 15-707-R

PLEA AGREEMENT FOR DEFENDANT  
ROBERTO MACIAS

19 1. This constitutes the plea agreement between Jessica Lopez  
20 ("defendant") and the United States Attorney's Office for the Central  
21 District of California (the "USAO") in the above-captioned case.  
22 This agreement is limited to the USAO and cannot bind any other  
23 federal, state, local, or foreign prosecuting, enforcement,  
24 administrative, or regulatory authorities.

25 DEFENDANT'S OBLIGATIONS

26 2. Defendant agrees to:

27 a. At the earliest opportunity requested by the USAO and  
28 provided by the Court, appear and plead guilty to count five of the

1 indictment in United States v. Roberto Macias, CR No. 15-707-R, which  
2 charges defendant with distribution of methamphetamine in violation  
3 of 21 U.S.C. §§ 841(a)(1), (b)(1)(A).

4 b. Not contest facts agreed to in this agreement.

5 c. Abide by all agreements regarding sentencing contained  
6 in this agreement.

7 d. Appear for all court appearances, surrender as ordered  
8 for service of sentence, obey all conditions of any bond, and obey  
9 any other ongoing court order in this matter.

10 e. Not commit any crime; however, offenses that would be  
11 excluded for sentencing purposes under United States Sentencing  
12 Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are not  
13 within the scope of this agreement.

14 f. Be truthful at all times with Pretrial Services, the  
15 United States Probation Office, and the Court.

16 g. Pay the applicable special assessment at or before the  
17 time of sentencing unless defendant lacks the ability to pay and  
18 prior to sentencing submits a completed financial statement on a form  
19 to be provided by the USAO.

20 THE USAO'S OBLIGATIONS

21 3. The USAO agrees to:

22 a. Not contest facts agreed to in this agreement.

23 b. Abide by all agreements regarding sentencing contained  
24 in this agreement.

25 c. At the time of sentencing, move to dismiss the  
26 remaining counts of the indictment as against defendant. Defendant  
27 agrees, however, that at the time of sentencing the Court may  
28 consider any dismissed charges in determining the applicable

1 Sentencing Guidelines range, the propriety and extent of any  
2 departure from that range, and the sentence to be imposed.

3 d. At the time of sentencing, provided that defendant  
4 demonstrates an acceptance of responsibility for the offense up to  
5 and including the time of sentencing, recommend a two-level reduction  
6 in the applicable Sentencing Guidelines offense level, pursuant to  
7 U.S.S.G. § 3E1.1, and recommend and, if necessary, move for an  
8 additional one-level reduction if available under that section.

9 NATURE OF THE OFFENSE

10 4. Defendant understands that for defendant to be guilty of  
11 the crime charged in count five, that is, distribution of  
12 methamphetamine, in violation of Title 21, United States Code,  
13 Sections 841(a)(1), (b)(1)(A), the following must be true:  
14 (1) defendant knowingly possessed a controlled substance; and (2) the  
15 defendant possessed the controlled substance with the intent to  
16 distribute it to another person.

17 5. Defendant understands that for defendant to be subject to  
18 the statutory maximum and statutory minimum sentence set forth below,  
19 the government must prove beyond a reasonable doubt that defendant  
20 distributed at least fifty grams of methamphetamine. Defendant  
21 admits that defendant, in fact, distributed at least fifty grams of  
22 methamphetamine, as described in count three of the indictment.

23 PENALTIES

24 6. Defendant understands that the statutory maximum sentence  
25 that the Court can impose for a violation of Title 21, United States  
26 Code, Section 841(a)(1), (b)(1)(A) is: lifetime imprisonment; a  
27 lifetime period of supervised release; a fine of \$10,000,000 or twice  
28

1 the gross gain or gross loss resulting from the offense, whichever is  
2 greatest; and a mandatory special assessment of \$100.

3 7. Defendant understands that, the statutory mandatory minimum  
4 sentence that the Court must impose for a violation of Title 21,  
5 United States Code, Section 841(a)(1), (b)(1)(A) is: ten years'  
6 imprisonment, followed by a five-year period of supervised release,  
7 and a mandatory special assessment of \$100.

8 8. Defendant understands that supervised release is a period  
9 of time following imprisonment during which defendant will be subject  
10 to various restrictions and requirements. Defendant understands that  
11 if defendant violates one or more of the conditions of any supervised  
12 release imposed, defendant may be returned to prison for all or part  
13 of the term of supervised release authorized by statute for the  
14 offense that resulted in the term of supervised release, which could  
15 result in defendant serving a total term of imprisonment greater than  
16 the statutory maximum stated above.

17 9. Defendant understands that, by pleading guilty, defendant  
18 may be giving up valuable government benefits and valuable civic  
19 rights, such as the right to vote, the right to possess a firearm,  
20 the right to hold office, and the right to serve on a jury.  
21 Defendant understands that once the court accepts defendant's guilty  
22 plea, it will be a federal felony for defendant to possess a firearm  
23 or ammunition. Defendant understands that the conviction in this  
24 case may also subject defendant to various other collateral  
25 consequences, including but not limited to revocation of probation,  
26 parole, or supervised release in another case and suspension or  
27 revocation of a professional license. Defendant understands that

1 unanticipated collateral consequences will not serve as grounds to  
2 withdraw defendant's guilty plea.

3 10. Defendant understands that, if defendant is not a United  
4 States citizen, the felony conviction in this case may subject  
5 defendant to: removal, also known as deportation, which may, under  
6 some circumstances, be mandatory; denial of citizenship; and denial  
7 of admission to the United States in the future. The court cannot,  
8 and defendant's attorney also may not be able to, advise defendant  
9 fully regarding the immigration consequences of the felony conviction  
10 in this case. Defendant understands that unexpected immigration  
11 consequences will not serve as grounds to withdraw defendant's guilty  
12 plea.

13 FACTUAL BASIS

14 11. Defendant admits that defendant is, in fact, guilty of the  
15 offense to which defendant is agreeing to plead guilty. Defendant  
16 and the USAO agree to the statement of facts provided below and agree  
17 that this statement of facts is sufficient to support a plea of  
18 guilty to the charge described in this agreement and to establish the  
19 Sentencing Guidelines factors set forth below but is not meant to be  
20 a complete recitation of all facts relevant to the underlying  
21 criminal conduct or all facts known to either party that relate to  
22 that conduct.

23 On or about January 10, 2014, in Los Angeles County, within the  
24 Central District of California, defendant knowingly and intentionally  
25 distributed at least fifty grams, that is, approximately 109.8 grams,  
26 of methamphetamine, a Schedule II controlled substance.

1                                    SENTENCING FACTORS

2            12. Defendant understands that in determining defendant's  
3 sentence the Court is required to calculate the applicable Sentencing  
4 Guidelines range and to consider that range, possible departures  
5 under the Sentencing Guidelines, and the other sentencing factors set  
6 forth in 18 U.S.C. § 3553(a). Defendant understands that the  
7 Sentencing Guidelines are advisory only, that defendant cannot have  
8 any expectation of receiving a sentence within the calculated  
9 Sentencing Guidelines range, and that after considering the  
10 Sentencing Guidelines and the other § 3553(a) factors, the Court will  
11 be free to exercise its discretion to impose any sentence it finds  
12 appropriate between the mandatory minimum and up to the maximum set  
13 by statute for the crime of conviction.

14            13. Defendant and the USAO agree to the following applicable  
15 Sentencing Guidelines factors:

16            Base Offense Level:                    [30]                    [U.S.S.G. § 2D1.1(c)(6)]  
17 Defendant and the USAO reserve the right to argue that additional  
18 specific offense characteristics, adjustments, and departures under  
19 the Sentencing Guidelines are appropriate.

20            14. Defendant understands that there is no agreement as to  
21 defendant's criminal history or criminal history category.

22            15. Defendant and the USAO reserve the right to argue for a  
23 sentence outside the sentencing range established by the Sentencing  
24 Guidelines based on the factors set forth in 18 U.S.C. § 3553(a)(1),  
25 (a)(2), (a)(3), (a)(6), and (a)(7).

26                                    WAIVER OF CONSTITUTIONAL RIGHTS

27            16. Defendant understands that by pleading guilty, defendant  
28 gives up the following rights:

1 a. The right to persist in a plea of not guilty.

2 b. The right to a speedy and public trial by jury.

3 c. The right to be represented by counsel -- and if  
4 necessary have the court appoint counsel -- at trial. Defendant  
5 understands, however, that, defendant retains the right to be  
6 represented by counsel -- and if necessary have the court appoint  
7 counsel -- at every other stage of the proceeding.

8 d. The right to be presumed innocent and to have the  
9 burden of proof placed on the government to prove defendant guilty  
10 beyond a reasonable doubt.

11 e. The right to confront and cross-examine witnesses  
12 against defendant.

13 f. The right to testify and to present evidence in  
14 opposition to the charges, including the right to compel the  
15 attendance of witnesses to testify.

16 g. The right not to be compelled to testify, and, if  
17 defendant chose not to testify or present evidence, to have that  
18 choice not be used against defendant.

19 h. Any and all rights to pursue any affirmative defenses,  
20 Fourth Amendment or Fifth Amendment claims, and other pretrial  
21 motions that have been filed or could be filed.

22 WAIVER OF APPEAL OF CONVICTION

23 17. Defendant understands that, with the exception of an appeal  
24 based on a claim that defendant's guilty plea was were involuntary,  
25 by pleading guilty defendant is waiving and giving up any right to  
26 appeal defendant's conviction on the offense to which defendant is  
27 pleading guilty.

1        18. Defendant agrees that, provided the Court imposes a term of  
2 imprisonment within or below the guidelines range corresponding to an  
3 offense level of 30 and the criminal history category calculated by  
4 the Court, defendant gives up the right to appeal all of the  
5 following: (a) the procedures and calculations used to determine and  
6 impose any portion of the sentence; (b) the term of imprisonment  
7 imposed by the Court; (c) the fine imposed by the court, provided it  
8 is within the statutory maximum; (d) the term of probation or  
9 supervised release imposed by the Court, provided it is within the  
10 statutory maximum; and (e) any of the following conditions of  
11 probation or supervised release imposed by the Court: the conditions  
12 set forth in General Orders 318, 01-05, and/or 05-02 of this Court;  
13 the drug testing conditions mandated by 18 U.S.C. §§ 3563(a)(5) and  
14 3583(d); and the alcohol and drug use conditions authorized by 18  
15 U.S.C. § 3563(b)(7).

16        19. The USAO agrees that, provided (a) all portions of the  
17 sentence are at or above the statutory minimum and at or below the  
18 statutory maximum specified above and (b) the Court imposes a term of  
19 imprisonment within or above the range corresponding to an offense  
20 level of 27 and the criminal history category calculated by the  
21 Court, the USAO gives up its right to appeal any portion of the  
22 sentence.

23                    WAIVER OF APPEAL AND COLLATERAL ATTACK

24        20. Defendant gives up the right to appeal all of the  
25 following: (a) the procedures and calculations used to determine and  
26 impose any portion of the sentence; (b) the term of imprisonment  
27 imposed by the Court, provided it is within the statutory maximum;  
28 (c) the fine imposed by the court, provided it is within the



1 statutory maximum; (d) the term of probation or supervised release  
2 imposed by the Court, provided it is within the statutory maximum;  
3 and (f) any of the following conditions of probation or supervised  
4 release imposed by the Court: the conditions set forth in General  
5 Orders 318, 01-05, and/or 05-02 of this Court; the drug testing  
6 conditions mandated by 18 U.S.C. §§ 3563(a)(5) and 3583(d); and the  
7 alcohol and drug use conditions authorized by 18 U.S.C. § 3563(b)(7).

8 21. Defendant also gives up any right to bring a post-  
9 conviction collateral attack on the conviction or sentence, except a  
10 post-conviction collateral attack based on a claim of ineffective  
11 assistance of counsel, a claim of newly discovered evidence, or an  
12 explicitly retroactive change in the applicable Sentencing  
13 Guidelines, sentencing statutes, or statutes of conviction.

14 22. This agreement does not affect in any way the right of the  
15 USAO to appeal the sentence imposed by the Court.

16 RESULT OF WITHDRAWAL OF GUILTY PLEA

17 23. Defendant agrees that if, after entering a guilty plea  
18 pursuant to this agreement, defendant seeks to withdraw and succeeds  
19 in withdrawing defendant's guilty plea on any basis other than a  
20 claim and finding that entry into this plea agreement was  
21 involuntary, then (a) the USAO will be relieved of all of its  
22 obligations under this agreement; and (b) should the USAO choose to  
23 pursue any charge or any allegation of a prior conviction for a  
24 felony drug offense that was either dismissed or not filed as a  
25 result of this agreement, then (i) any applicable statute of  
26 limitations will be tolled between the date of defendant's signing of  
27 this agreement and the filing commencing any such action; and  
28 (ii) defendant waives and gives up all defenses based on the statute

1 of limitations, any claim of pre-indictment delay, or any speedy  
2 trial claim with respect to any such action, except to the extent  
3 that such defenses existed as of the date of defendant's signing this  
4 agreement.

5 RESULT OF VACATUR, REVERSAL OR SET-ASIDE

6 24. Defendant agrees that if the count of conviction is  
7 vacated, reversed, or set aside, both the USAO and defendant will be  
8 released from all their obligations under this agreement.

9 EFFECTIVE DATE OF AGREEMENT

10 25. This agreement is effective upon signature and execution of  
11 all required certifications by defendant, defendant's counsel, and an  
12 Assistant United States Attorney.

13 BREACH OF AGREEMENT

14 26. Defendant agrees that if defendant, at any time after the  
15 signature of this agreement and execution of all required  
16 certifications by defendant, defendant's counsel, and an Assistant  
17 United States Attorney, knowingly violates or fails to perform any of  
18 defendant's obligations under this agreement ("a breach"), the USAO  
19 may declare this agreement breached. All of defendant's obligations  
20 are material, a single breach of this agreement is sufficient for the  
21 USAO to declare a breach, and defendant shall not be deemed to have  
22 cured a breach without the express agreement of the USAO in writing.  
23 If the USAO declares this agreement breached, and the Court finds  
24 such a breach to have occurred, then: (a) if defendant has previously  
25 entered a guilty plea pursuant to this agreement, defendant will not  
26 be able to withdraw the guilty plea, and (b) the USAO will be  
27 relieved of all its obligations under this agreement.

1           27. Following the Court's finding of a knowing breach of this  
2 agreement by defendant, should the USAO choose to pursue any charge  
3 or any allegation of a prior conviction for a felony drug offense  
4 that was either dismissed or not filed as a result of this agreement,  
5 then:

6           a. Defendant agrees that any applicable statute of  
7 limitations is tolled between the date of defendant's signing of this  
8 agreement and the filing commencing any such action.

9           b. Defendant waives and gives up all defenses based on  
10 the statute of limitations, any claim of pre-indictment delay, or any  
11 speedy trial claim with respect to any such action, except to the  
12 extent that such defenses existed as of the date of defendant's  
13 signing this agreement.

14           c. Defendant agrees that: (i) any statements made by  
15 defendant, under oath, at the guilty plea hearing (if such a hearing  
16 occurred prior to the breach); (ii) the agreed to factual basis  
17 statement in this agreement; and (iii) any evidence derived from such  
18 statements, shall be admissible against defendant in any such action  
19 against defendant, and defendant waives and gives up any claim under  
20 the United States Constitution, any statute, Rule 410 of the Federal  
21 Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal  
22 Procedure, or any other federal rule, that the statements or any  
23 evidence derived from the statements should be suppressed or are  
24 inadmissible.

25           COURT AND PROBATION OFFICE NOT PARTIES

26           28. Defendant understands that the Court and the United States  
27 Probation Office are not parties to this agreement and need not  
28

1 accept any of the USAO's sentencing recommendations or the parties'  
2 agreements to facts or sentencing factors.

3       29. Defendant understands that both defendant and the USAO are  
4 free to: (a) supplement the facts by supplying relevant information  
5 to the United States Probation Office and the Court, (b) correct any  
6 and all factual misstatements relating to the Court's Sentencing  
7 Guidelines calculations and determination of sentence, and (c) argue  
8 on appeal and collateral review that the Court's Sentencing  
9 Guidelines calculations and the sentence it chooses to impose are not  
10 error, although each party agrees to maintain its view that the  
11 calculations in paragraph 13 are consistent with the facts of this  
12 case. While this paragraph permits both the USAO and defendant to  
13 submit full and complete factual information to the United States  
14 Probation Office and the Court, even if that factual information may  
15 be viewed as inconsistent with the facts agreed to in this agreement,  
16 this paragraph does not affect defendant's and the USAO's obligations  
17 not to contest the facts agreed to in this agreement.

18       30. Defendant understands that even if the Court ignores any  
19 sentencing recommendation, finds facts or reaches conclusions  
20 different from those agreed to, and/or imposes any sentence up to the  
21 maximum established by statute, defendant cannot, for that reason,  
22 withdraw defendant's guilty plea[s], and defendant will remain bound  
23 to fulfill all defendant's obligations under this agreement.  
24 Defendant understands that no one -- not the prosecutor, defendant's  
25 attorney, or the Court -- can make a binding prediction or promise  
26 regarding the sentence defendant will receive, except that it will be  
27 within the statutory maximum.

NO ADDITIONAL AGREEMENTS

31. Defendant understands that, except as set forth herein, there are no promises, understandings, or agreements between the USAO and defendant or defendant's attorney, and that no additional promise, understanding, or agreement may be entered into unless in a writing signed by all parties or on the record in court.

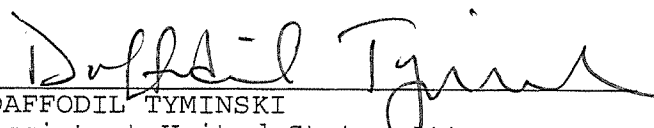
PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

32. The parties agree that this agreement will be considered part of the record of defendant's guilty plea hearing as if the entire agreement had been read into the record of the proceeding.

AGREED AND ACCEPTED

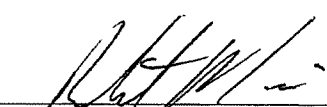
UNITED STATES ATTORNEY'S OFFICE  
FOR THE CENTRAL DISTRICT OF  
CALIFORNIA

EILEEN M. DECKER  
United States Attorney

  
DAFFODIL TYMINSKI  
Assistant United States Attorney


Date

4/25/16

  
ROBERTO MACIAS  
Defendant

Date

4/11/16

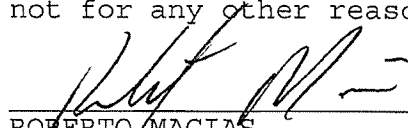
  
THOMAS NISHI  
Attorney for Defendant Roberto  
Macias

Date

4/11/16

CERTIFICATION OF DEFENDANT

I have read this agreement in its entirety. This agreement has been read to me in Spanish, the language I understand best. I have had enough time to review and consider this agreement, and I have carefully and thoroughly discussed every part of it with my attorney. I understand the terms of this agreement, and I voluntarily agree to those terms. I have discussed the evidence with my attorney, and my attorney has advised me of my rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. No promises, inducements, or representations of any kind have been made to me other than those contained in this agreement. No one has threatened or forced me in any way to enter into this agreement. I am satisfied with the representation of my attorney in this matter, and I am pleading guilty because I am guilty of the charges and wish to take advantage of the promises set forth in this agreement, and not for any other reason.

  
ROBERTO MACIAS  
Defendant

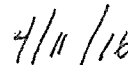
4/11/16  
Date

CERTIFICATION OF DEFENDANT'S ATTORNEY

I am Roberto Macias's attorney. I have carefully and thoroughly discussed every part of this agreement with my client. Further, I have fully advised my client of her rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. To my knowledge: no promises, inducements, or representations of any kind have been made to my client other than those contained in this agreement; no one has threatened or forced my client in any way to enter into this agreement; my client's decision to enter into this agreement is an informed and voluntary one; and the factual basis set forth in this agreement is sufficient to support my client's entry of a guilty plea pursuant to this agreement.



THOMAS NISHI  
Attorney for Defendant Roberto Macias



Date